

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

TIPHANEY MARCHETTA, ET AL.

PLAINTIFFS

v.

CAUSE NO. 1:12CV315 LG-JCG

BURKS OUTLET STORE OF PICAYUNE, MS

DEFENDANT

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING CASE FOR FAILURE TO PROSECUTE**

This cause comes before the Court on the Report and Recommendation [9] of United States Magistrate Judge John M. Roper, Sr. entered in this cause on July 9, 2014. Judge Roper's review of the procedural history of this case shows that the plaintiffs failed to serve process on the defendant, and failed to respond to the Court's show cause order. All of the mail sent to plaintiffs at their address of record has been returned to the Court as undeliverable. (*See* ECF Nos. 6, 8, & 10). Judge Roper concluded that plaintiffs' inaction is indicative of a lack of interest in pursuing this case, warranting dismissal pursuant to FED. R. CIV. P. 41(b). As there has been no objection to the Magistrate Judge's findings and conclusions, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). After having reviewed the Report and Recommendation and the record in this case, the Court finds the Magistrate Judge's conclusions neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the Report and Recommendation [9] of United States Magistrate Judge John M. Roper, Sr. entered

in this cause on July 9, 2014, should be, and the same hereby is, adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the plaintiff's claims are **DISMISSED** without prejudice pursuant to FED. R. CIV. P. 41(b) for failure to prosecute.

SO ORDERED AND ADJUDGED this the 12th day of August, 2014.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE